

Senate Committee on Transportation  
March 5, 1991 - Page

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks

report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

Measures Heard:  
Informational  
PH: SB 389

SENATE COMMITTEE ON  
TRANSPORTATION

March 5, 1991Hearing Room C  
8:00 a.m.Tapes 35 - 37

MEMBERS PRESENT:Sen. Joan Dukes, Chair  
Sen. William McCoy, Vice-Chair  
Sen. Peter Brockman  
Sen. Scott Duff  
Sen. Paul Phillips  
Sen. Tricia Smith  
Sen. Eugene Timms

STAFF PRESENT: Ruth Larson, Committee Administrator  
Shannon Gossack, Committee Assistant

WITNESSES: Ingrid Swenson, Committee Counsel Senate Judiciary  
Dr. Ann Brown, Oregon Medical Association  
Mike McCracken, Oregon Medical Association  
Paula Scarlett, Sacred Heart Hospital  
Jenny Ulum, Sacred Heart Hospital  
Debbie Lee, Assistant to Senator Springer  
Susan King, Oregon Nurses Association  
Rod Monroe, Multnomah County DUI  
Nancy Wolfe, MADD  
Carol Bonnono, Multnomah County DUI  
Leonard Higgins, Legislative Fiscal  
Joan Plank, Motor Vehicle Division  
Becky Hanson, Motor Vehicle Division  
Glen Rader, Oregon State Police

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

TAPE 35, SIDE A

008 CHAIR DUKES: Calls meeting to order at 8:15 a.m.

011 LEONARD HIGGINS, LEGISLATIVE FISCAL: Discusses Motor Vehicle Divisions budget.  
Discusses HB 2275; which deals with Motor Vehicle fee increases.  
-Explains SB 172 which would eliminate the certified mail.  
-There would be some savings in eliminating some parts of the hearing process.  
-The main purpose of the fee increase is to raise the 8.7 million dollars to build a fund to replace the computer system, and build a new facility.

085 SEN DUKES: What will happen if the fee bill passes in a modified form or doesn't pass at all?

089 HIGGINS: The Governor's budget is constructed with the reduction in mind.

-As the budget is proposed these fee increases are not necessary.

-There is a dynamic relationship between Motor Vehicle expenses and the amount of money that is transferred to the Highway Fund.

-If the budget doesn't pass customer service will be affected.

-Discusses other areas of concern if the budget fails.

119 CHAIR DUKES: Could we still do the new computer?

122 HIGGINS: Both the building and computer projects are long term but I think that the fee bills would cover these two.

132 CHAIR DUKES: So they would have enough money with the fee bills to start these projects?

136 HIGGINS: I think that is up to the Governor.

-Discusses in regards to Motor Vehicles.

142 CHAIR DUKES: Do you think the 8 million dollar increase they are asking for now; as opposed to the 20 million originally requested will do it for them?

145 HIGGINS: We have not finished hearings in regard to this issue and I am not ready to make a recommendation.

-My initial response is the 8 million would be sufficient.

156 CHAIR DUKES: Discusses last session funding from the Emergency Board.

160 HIGGINS: The total funding that the Motor Vehicle Division received from the Emergency Board was about 17.3 million dollars, and of that, about 8 million was funding related.

182 CHAIR DUKES: Was that placed into their base budget for this biennium?

184 HIGGINS: Most of it was.

-Explains Emergency Board intent in regard to funding for the Motor Vehicle Division.

187 CHAIR DUKES: Discusses funding the Motor Vehicles received from the Emergency Boards.

191 HIGGINS: Those question haven't been answered yet. The fee increases are not for the 91-93 biennium. Revenue from those increases takes time. I think it is a forward moving action that would primarily provide additional funding for the 93-95 biennium and beyond.

197 CHAIR DUKES: Where is the 8 million that DMV got during the interim?

200 HIGGINS: Discusses legislation by Motor Vehicles to save money.

237 CHAIR DUKES: Discusses money DMV received last session in regard to the proposed legislation this session.

241 HIGGINS: I think there is a direct relationship between the revenues and the transfer to the Highway Fund. The Governor's recommended budget does not depend on the fee increase.

246 SEN. MCCOY: What percentage of funds are transferred to the Highway fund?

250 HIGGINS: It is not a percentage. It is a very small piece of the total revenues.

274 SEN MCCOY: How much are we talking about?

283 HIGGINS: I don't have the last biennium figure, but the Governor's recommended budget anticipates a transfer of approximately \$648 million.  
-The current biennium projection is a \$581 million dollar transfer.

299 RUTH LARSON, COMMITTEE ADMINISTRATOR: Submits LC 3795 for possible introduction by the Committee. (EXHIBIT A)

302 SEN. TIMMS: Reviews LC 3795. (EXHIBIT A)

334 MOTION: SENATOR TIMMS MOVES LC 3795 BE ADOPTED AS A COMMITTEE BILL.

VOTE: HEARING NO OBJECTION THE MOTION IS ADOPTED.

PUBLIC HEARING SB 389

380 INGRID SWENSON, COMMITTEE COUNSEL, SENATE JUDICIARY: Reviews SB 389 and the process it has gone through during the interim.

TAPE 36, SIDE A

006 SWENSON: Continues with review of SB 389.  
-Discusses concerns about SB 389 with respect to the implied consent law.

089 CHAIR DUKES: So someone that is taken to a hospital who was capable of performing a breath test would have that as an option?

094 SWENSON: Assuming that the technology was available. There generally is not a breathalizer at the hospital.

092 SEN. SMITH: Can we really take action on this bill with all of the issues not worked out?

099 CHAIR DUKES: It was determined that we should have the bill first. If this bill passes then this suspension issue would already be in the bill.

105 SEN. SMITH: Why couldn't a medical lab handle the second blood test?

108 SWENSON: They probably could with some arrangement regarding payment. Then again there is the problem of the chain of evidence and the fact that they would have to testify routinely.

118 CHAIR DUKES: Does this bill just require the first blood test?

122 SWENSON: It requires the hospital to notify the police of the results of first blood test.

138 CHAIR DUKES: There is one done locally and one done at the crime lab.

142 SEN. SMITH: Would there be any question about the person being able to understand their rights and the consequences?

147 SWENSON: It would be an issue; as it currently is with the breath test.

157 CHAIR DUKES: If a person refuses the second blood test it would be the same as refusing a breathalizer test.

158 SEN. TIMMS: Concerned about not testing blood for other drugs.

160 SWENSON: Discusses the process of detecting people driving under the influence.

182 SEN. TIMMS: Is it a liability problem?

187 SWENSON: It was not something they gave priority to.

191 SEN. SMITH: Aren't some drugs detected days after it is ingested?

201 JOAN PLANK, MOTOR VEHICLE DIVISION: We would like to treat these situations like we treat implied consent.  
-Discusses Emanuel Hospital study.

223 CHAIR DUKES: What would the cost be to your division?

227 PLANK: There may be an additional expense in regards to the hearings.

234 CHAIR DUKES: How do we recover any costs?

238 PLANK: Costs will be recovered through the re-instatement fee. We don't have a way to pay for the hearing process.

248 CHAIR DUKES: Will this be one of the types of hearings you're trying to eliminate?

254 PLANK: Discusses administrative procedures and how the hearing process works.

263 CHAIR DUKES: Are you involved before the implied consent conviction?

268 PLANK: It isn't a conviction it is done under administrative action.

271 CHAIR DUKES: Discusses the process of conviction in regard to implied consent.

285 PLANK: Before a person can be asked to do the blood or urine test the individual must be under arrest. The police agency needs to determine probable cause.

300 CHAIR DUKES: Asks about the time frame involved.

306 PLANK: We are required to hold a hearing 30 days from the date that the person received the implied consent violation; there is a problem getting the blood.

313 CHAIR DUKES: Does the information come back to the police and then they notify you?

320 PLANK: Procedures still need to be put into place. Once procedures are in place it could be handled the same as the implied consent rule.

336 CHAIR DUKES: How long does your process take?

340 BECKY HANSON, MOTOR VEHICLE DIVISION: The process does not currently exist, but could be worked out.  
-Explains current procedure for notification of conviction.

360 CHAIR DUKES: If someone fails a breath test how do you get notified?

367 HANSON: Explains the process of notification.

370 CHAIR DUKES: So that same process could apply to this bill?

375 PLANK: I think there needs to be some adjustments.

384 SEN. DUFF: Discusses the Motor Vehicle Divisions budget in regard to SB 389 .

393 SEN. BROCKMAN: Asks for clarification on Emanuel Hospital study regarding drivers of the vehicles. Under current statute there is no provision for the driver of the vehicle to be cited?  
Does implied consent apply if a person in comatose?

401 PLANK: The driver was involved in an accident before being caught by an officer.

418 SEN. TIMMS: Does the \$60.00 cover your cost?

TAPE 35, SIDE B

011 PLANK: Discusses the re-instatement issue.

015 SEN. TIMMS: Who is going to pay for the blood test?

019 SEN. BROCKMAN: If the driver is under arrest, who pays the hospital bill?

030 GLEN RADER, OREGON STATE POLICE: Discusses ORS 30.795 which addresses the liability issue.  
-There is a fiscal on SB 389.  
-There is current law to address the issue of a comatose person and the implied consent laws.  
-Discusses the Attorney General response to SB 389.

060 SEN. SMITH: Isn't SB 389 in conflict with the statute you mentioned?

076 SEN. BROCKMAN: This would weaken the current statute.

080 RADER: It would possibly weaken the current statute.

086 SEN. DUFF: What about the cost of the blood test?

088 RADER: Discusses the possible fiscal impact on the Oregon State Police agency.

099 CHAIR DUKES: Would the law enforcement agency that brought the person in have to be responsible for that fee?

104 RADER: Yes. Discusses current law in regard to the request of tests.

107 SEN. DUFF: What about the drug issue?

110 RADER: Explains the drug recognition program.

155 SEN. DUFF: Can we add a urine test to this bill?

158 RADER: We have a bill that would do that.  
-Discusses the study currently being done in the Willamette Valley in regard to detection of a driver under the influence of drugs or alcohol.

193 CHAIR DUKES: Asks about illegal drugs versus prescription drugs.

197 RADER: Controlled substances can either be illegal drugs or prescription drugs that are abused.  
-The person must first be under arrest for driving under intoxicants.

212 SEN. TIMMS: What is the cost of a urine test versus the blood test? What is the most effective way to do this?

218 RADER: Explains which tests are appropriate for which drugs.

270 DR. ANN BROWN, OREGON MEDICAL ASSOCIATION: Submits and reviews written testimony. (EXHIBIT B)

341 SEN. SMITH: The big hang up seems to be how Motor Vehicles will handle this extended waiting period that will occur because the State Police will be handling the second blood test in the crime lab. Is there a way for the hospital to do the test without involving all of the medical personnel in the court room?

364 BROWN: Discusses reasons for the first blood draw.  
-Hospitals could be asked to do that but we would be involved in the chain of evidence.

387 SEN. SMITH: Is the serum test less reliable than the whole blood test?

414 MIKE MCCrackEN, OREGON MEDICAL ASSOCIATION: Supports concept of SB 389; we do have some concerns about this bill.

425 CHAIR DUKES: We are doing a second test so there isn't a complication

with people going to court. Please find out what the fiscal would be on hospitals.

TAPE 36, SIDE B

045 JENNY ULUM, SACRED HEART HOSPITAL & PAULA SCARLETT, SACRED HEART HOSPITAL: Submits and reviews written testimony.(EXHIBIT C)

084 SEN. MCCOY: What are some of the ethical considerations?

087 SCARLETT: Discusses concern over language that does not require a person to report someone.  
-In smaller communities that could be a problem.

105 SEN. MCCOY: What is right is right.

108 SCARLETT: I agree with you, but it is not always the case. Professionally I would feel more comfortable if it were mandatory.

114 SEN. DUFF: Do you have an ethics review board? Do they review particular situations? Don't you think they would create a new ethical standard to deal with this?

117 SCARLETT: Yes we do.  
-Explains the process of how ethical standards are set.

135 SEN. TIMMS: To make it fair we should make it mandatory. What would that cost?

147 ULUM: Discusses trauma fees.

152 SEN. TIMMS: Discusses insurance and how hospitals are paid back.

180 DEBBIE LEE, FOR SENATOR DICK SPRINGER: Submits and reviews written testimony.  
(EXHIBIT D)

218 SUSAN KING, OREGON NURSES ASSOCIATION: Expresses concern over the issue of ethics and the provider patient issue. Reserves further comments for the Senate Judiciary Committee.

245 CAROL BONNONO, MULTNOMAH CO.: Submits and reviews written testimony.(EXHIBIT E)

381 NANCY WOLF, MADD: Submits testimony in support of SB 389.(EXHIBIT F)

393 ROD MONROE, MULTNOMAH COUNTY, DUI: Discusses people who have not been affected by the social trends in regard to drinking and driving.  
-Discusses the current procedure for a person arrested for a DUI.

TAPE 37, SIDE A

015 MONROE: It is mandatory to report this as outlined in SB 389?  
-Suggests possible solution to SB 389.

055 CHAIR DUKES: For the people that didn't get to testify please submit your testimony for the record.

058 CHAIR DUKES: Adjourns hearing at 10:40 a.m.

Submitted by,

Reviewed by,

Shannon Gossack  
Assistant

Ruth Larson  
Administrator

EXHIBIT LOG:

- A - Committee Staff, LC 3795, 3 pgs.
- B - Dr. Ann Brown, Testimony SB 389, 3 pgs.
- C - Paula Scarlett, Jenny Ulum, Testimony SB 389, 2 pgs.
- D - Senator Dick Springer, Testimony SB 389, 2 pgs.
- E - Carol Bonnono, Testimony SB 389, 18 pgs.
- F - Nancy Wolf, Testimony SB 389, 2 pgs.